

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DARREN CHAKER,

CASE NO. 96cv0314

Plaintiff,

ORDER

vs.

OFFICER J. DAVIS,

Defendant.

HAYES, Judge:

On February 5, 1996, Plaintiff initiated this action by filing a Complaint in San Diego County Superior Court against San Diego Police Officer J. Davis. On February 22, 1996, Defendant removed the action to this Court. (ECF No. 1). On August 13, 1996, the Court dismissed the case for lack of prosecution by Plaintiff. (ECF No. 15).

On July 30, 2012, Plaintiff submitted a motion to seal the entire record of this case and an ex parte application to file the motion under seal. (ECF Nos. 20, 21). On October 26, 2012, the Court denied the motion and application, finding “that the strong presumption against sealing judicial proceedings outweighs Plaintiff’s privacy interests in sealing the entire record in this case.” (ECF No. 19).

On November 9, 2012, Plaintiff submitted a motion to seal part of the record of this case and an ex parte application to file the motion under seal. (ECF Nos. 24, 25). On December 13, 2012, the Court denied the motion and application for the reasons stated in the October 26, 2012 Order. (ECF No. 27).

On February 8, 2013, Plaintiff filed a Notice of Appeal of the October 26, 2012 and December 13, 2012 Orders. (ECF No. 30). On February 8, 2013, Plaintiff filed a Petition for

1 Extension of Time to File Notice of Appeal. (ECF No. 31). In an affidavit, Plaintiff states that  
 2 he was not notified of the October 26, 2012 and December 13, 2012 Orders until January 22,  
 3 2013, due to the Clerk of the Court mailing the Orders to the incorrect mailing address. *Id.* at  
 4 7.

5 On February 13, 2013, Plaintiff filed a Motion to Disqualify Judge. (ECF No. 35).  
 6 Plaintiff states that he was not notified that a new judge was assigned to this action, and  
 7 "Plaintiff was denied the opportunity to file a request to disqualify the judge prior to the court  
 8 entering its initial [October 26, 2012] order, Docket 19." *Id.* at 1. Plaintiff states that the  
 9 "recent submission" of an unidentified "complaint" against the Court "further provides reason  
 10 for the court to disqualify itself." *Id.*

11 On February 13, 2013, Plaintiff filed a Motion to Provisionally Seal Partial Record  
 12 Pending Appeal. (ECF No. 37). Plaintiff requests that the Court provisionally seal documents  
 13 Plaintiff filed in conjunction with his previous motions to seal. (ECF Nos. 21, 25).

14 Federal Rule of Appellate Procedure 4 permits a district court to extend the time for a  
 15 plaintiff to file a notice of appeal upon a showing of good cause or excusable neglect. *See*  
 16 *State of Or. v. Champion Int'l Corp.*, 680 F.2d 1300, 1301 (9th Cir. 1982); *see also* Fed. R.  
 17 App. P. 4(a)(5)(C) ("No extension under this Rule 4(a)(5) may exceed 30 days after the  
 18 prescribed time or 14 days after the date when the order granting the motion is entered,  
 19 whichever is later."). Plaintiff has submitted an affidavit stating that he did not receive copies  
 20 of the Court's October 26, 2012 and December 13, 2012 Orders until January 22, 2013.

21 IT IS HEREBY ORDERED that, good cause appearing, the Petition for Extension of  
 22 Time to File Notice of Appeal is GRANTED. (ECF No. 31). The Motion to Disqualify Judge  
 23 is DENIED. (ECF No. 35). For the reasons stated in the October 26, 2012 Order, the Motion  
 24 to Provisionally Seal Partial Record Pending Appeal is DENIED. (ECF No. 37).

25 DATED: February 21, 2013

26   
 27 **WILLIAM Q. HAYES**  
 28 United States District Judge